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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
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11 DARRYL DUNSMORE,

12 Plaintiff,

13 v.

14 STATE OF CALIFORNIA, *et*
15 *al.*,

16 Defendants.
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) Case No. CV 11-7141 DOC (JCG)

) **ORDER: (1) ACCEPTING REPORT**
) **AND RECOMMENDATION OF**
) **UNITED STATES MAGISTRATE**
) **JUDGE; AND (2) DENYING**
) **PLAINTIFF'S MOTION FOR TRO**
) **INJUNCTIVE RELIEF**

19 Pursuant to 28 U.S.C. § 636, the Court has reviewed the Second Amended
20 Complaint ("SAC"), the Magistrate Judge's Report and Recommendation,
21 Petitioner's Objections to the Report and Recommendation, and the remaining
22 record, and has made a *de novo* determination.

23 Like the SAC, Plaintiff's Objections are disjointed, rambling, and difficult to
24 understand. And nothing in them refutes the Magistrate Judge's findings that
25 Plaintiff has failed to plausibly allege that: (1) defendants Warden Cash, Warden
26 Sullivan, and Hernandez violated his rights under the Constitution or Americans
27 with Disabilities Act; and (2) defendant State of California was the moving force
28 behind the alleged violations.

1 Further, the Court finds that, despite Plaintiff's purported attempts to clarify
 2 his doe allegations, they remain ambiguous, conclusory, and confusing. Indeed, in
 3 light of the nearly 50 doe defendants identified in the Objections, and the muddled
 4 nature in which they are named, Plaintiff has managed to make his doe allegations
 5 even more unintelligible. For many of the does, Plaintiff fails to connect them to
 6 the specific allegations contained in the SAC. And for the rest, Plaintiff fails to
 7 give them "fair notice of what the claim[s] [are] and the grounds upon which [they]
 8 rest[]" *See Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (quotation
 9 marks and citation omitted).

10 Finally, the Court has considered Plaintiff's "Motion for TRO Injunctive
 11 Relief" ("Motion"), filed on August 14, 2012. The Court notes that this is
 12 Plaintiff's *fourth* request for emergency injunctive relief. For the reasons stated in
 13 the Court's October 1, 2011, November 22, 2011, and March 22, 2012 Orders
 14 denying injunctive relief, the Motion is denied.

15 Accordingly, IT IS ORDERED THAT:

- 16 1. The Report and Recommendation is approved and accepted;
- 17 2. Judgment be entered dismissing this action as follows:
 - 18 a. Dismissing Plaintiff's claims against Warden Cash, Warden
 - 19 Sullivan, Hernandez, and the State of California with prejudice;
 - 20 b. Dismissing Plaintiff's official capacity claims against the Doe
 - 21 Defendants with prejudice; and
 - 22 c. Dismissing Plaintiff's individual capacity claims against the
 - 23 Doe Defendants without prejudice.
- 24 3. Plaintiff's Motion for TRO Injunctive Relief [Docket No. 39] is
- 25 **DENIED**; and

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1 4. The Clerk serve copies of this Order and the Judgment on the parties.
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4 DATED: September 4, 2012

David O. Carter

HON. DAVID O. CARTER
UNITED STATES DISTRICT JUDGE